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Susan E. Woods Construction Company and KWK Construction Company, as a Single Employer, Joint Employers, or Alter Egos and Carpenters District Council of Washington, DC and Vicinity. Case 5-CA-25601

April 30, 1998

DECISION AND ORDER

BY CHAIRMAN GOULD AND MEMBERS FOX AND
LIEBMAN

Upon a charge filed by the Union on August 29, 1995, the General Counsel of the National Labor Relations Board issued a complaint on June 17, 1996, against Susan E. Woods Construction Company and KWK Construction Company, as a single employer, joint employers, or alter egos, the Respondents, alleging that they have violated Section 8(a)(1) and (5) of the National Labor Relations Act. Although properly served copies of the charge and complaint, the Respondents failed to file an answer.

On April 6, 1998, the Acting General Counsel filed a Motion for Summary Judgment with the Board. On April 8, 1998, the Board issued an order transferring the proceeding to the Board and a Notice to Show Cause why the motion should not be granted. The Respondents filed no response. The allegations in the motion are therefore undisputed.

The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

Ruling on Motion for Summary Judgment

Sections 102.20 and 102.21 of the Board's Rules and Regulations provide that the allegations in the complaint shall be deemed admitted if an answer is not filed within 14 days from service of the complaint, unless good cause is shown. In addition, the complaint affirmatively notes that unless an answer is filed within 14 days of service, all the allegations in the complaint will be considered admitted. Further, the undisputed allegations in the Motion for Summary Judgment disclose that the Region, by letters dated March 26 and September 26, 1997, notified the Respondents that unless an answer were filed, a Motion for Summary Judgment would be filed.

In the absence of good cause being shown for the failure to file a timely answer, we grant the General Counsel's Motion for Summary Judgment.

On the entire record, the Board makes the following

FINDINGS OF FACT

I. JURISDICTION

At all material times, the Respondents, Virginia corporations, with an office and place of business in Manassas, Virginia, have been engaged in construction interior work in the construction industry. At a date within the knowledge of the Respondents, Respondent KWK Construction Company was established by Respondent Susan E. Woods Construction Company as a subordinate instrument to, and a disguised continuation of, Respondent Susan E. Woods Construction Company. At all material times, the Respondents have been affiliated business enterprises with common officers, ownership, directors, management, and supervision, have administered a common labor policy, have shared common premises and facilities, have provided services for and made sales to each other, have interchanged personnel with each other, and have held themselves out to the public as a single-integrated business enterprise. Based on this conduct, Respondent Susan E. Woods Construction Company and Respondent KWK Construction Company are, and have been at all material times, alter egos and a single employer within the meaning of the Act, and/or joint employers of the unit employees described below. During the 12-month period preceding issuance of the complaint, the Respondents, in conducting their business operations, performed services valued in excess of \$50,000 in states other than the State of Virginia. We find that the Respondents are employers engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act and that the Union is a labor organization within the meaning of Section 2(5) of the Act.

II. ALLEGED UNFAIR LABOR PRACTICES

The following employees of the Respondents constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the Act:

All employees employed by the Respondents performing work described in Article IV, in the territories described in Article III, of the Master Agreement between Construction Contractors Council-AGC Labor Division, Inc. and the Union, effective May 1, 1993, to April 30, 1996.

Since about August 2, 1993, and at all material times, the Union has been the designated exclusive collective-bargaining representative of the unit and, since then, the Union has been recognized as the representative by the Respondents. This recognition has been embodied in a recognition agreement dated August 2, 1993, and in a collective-bargaining agreement effective from May 1, 1993, to April 30, 1996. At all times since August 2, 1993, based on Section 9(a) of

the Act, the Union has been the exclusive collective-bargaining representative of the unit.

Since about April 6, 1995, the Union, by letter, has requested that the Respondents provide the Union with the following information:

(1) All jobs performed by Susan E. Woods Construction dating from May 1, 1993, including owner's name and address, day and year job started, and day and year job ended;

(2) Superintendents employed by Susan E. Woods Construction Company and the address of the jobsites they worked;

(3) True copies of all contracts between Susan E. Woods Construction Company and KWK Construction Company and, if no such contracts exist, a written explanation of the exact employment relationship between Susan E. Woods Construction Company and KWK Construction Company; and

(4) Superintendents employed by Susan E. Woods Construction Company.

This information requested by the Union is necessary for and relevant to the Union's performance of its duties as the exclusive collective-bargaining representative of the unit. Since about April 6, 1995, the Respondents have failed and refused to provide the Union with the information requested.

CONCLUSION OF LAW

By the acts and conduct described above, the Respondents have been failing and refusing to bargain collectively and in good faith with the exclusive collective-bargaining representative of their employees, and have thereby engaged in unfair labor practices affecting commerce within the meaning of Section 8(a)(5) and (1) and Section 2(6) and (7) of the Act.

REMEDY

Having found that the Respondents have engaged in certain unfair labor practices, we shall order them to cease and desist and to take certain affirmative action designed to effectuate the policies of the Act. Specifically, having found that the Respondents have failed to provide the Union information that is relevant and necessary to its role as the exclusive bargaining representative of the unit employees, we shall order the Respondents to furnish the Union the information requested.

ORDER

The National Labor Relations Board orders that the Respondents, Susan E. Woods Construction Company and KWK Construction Company, as a single employer, joint employers, or alter egos, Manassas, Virginia, its officers, agents, successors, and assigns, shall

1. Cease and desist from

(a) Failing to provide the Union requested information that is relevant and necessary to its role as the exclusive bargaining representative of the following unit employees:

All employees employed by the Respondents performing work described in Article IV, in the territories described in Article III, of the Master Agreement between Construction Contractors Council-AGC Labor Division, Inc. and the Union, effective May 1, 1993, to April 30, 1996.

(b) In any like or related manner interfering with, restraining, or coercing employees in the exercise of the rights guaranteed them by Section 7 of the Act.

2. Take the following affirmative action necessary to effectuate the policies of the Act.

(a) Furnish the Union the information requested about April 6, 1995.

(b) Within 14 days after service by the Region, post at its facility in Manassas, Virginia, copies of the attached notice marked "Appendix."¹ Copies of the notice, on forms provided by the Regional Director for Region 5, after being signed by the Respondents' authorized representative, shall be posted by the Respondents and maintained for 60 consecutive days in conspicuous places including all places where notices to employees are customarily posted. Reasonable steps shall be taken by the Respondent to ensure that the notices are not altered, defaced or covered by any other material. In the event that, during the pendency of these proceedings, the Respondents have gone out of business or closed the facility involved in these proceedings, the Respondent shall duplicate and mail, at its own expense, a copy of the notice to all current employees and former employees employed by the Respondent at any time since April 6, 1995.

(c) Within 21 days after service by the Region, file with the Regional Director a sworn certification of a

¹ If this Order is enforced by a judgment of a United States court of appeals, the words in the notice reading "Posted by Order of the National Labor Relations Board" shall read "Posted Pursuant to a Judgment of the United States Court of Appeals Enforcing an Order of the National Labor Relations Board."

responsible official on a form provided by the Region attesting to the steps that the Respondent has taken to comply.

Dated, Washington, D.C. April 30, 1998

William B. Gould IV,	Chairman
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Sarah M. Fox,	Member
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Wilma B. Liebman,	Member
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(SEAL) NATIONAL LABOR RELATIONS BOARD

APPENDIX

NOTICE TO EMPLOYEES
POSTED BY ORDER OF THE
NATIONAL LABOR RELATIONS BOARD
An Agency of the United States Government

The National Labor Relations Board has found that we violated the National Labor Relations Act and has ordered us to post and abide by this notice.

WE WILL NOT fail to provide Carpenters District Council of Washington, DC and Vicinity requested information that is relevant and necessary to its role as the exclusive bargaining representative of the following unit employees:

All employees employed by the Employers performing work described in Article IV, in the territories described in Article III, of the Master Agreement between Construction Contractors Council-AGC Labor Division, Inc. and the Union, effective May 1, 1993, to April 30, 1996.

WE WILL NOT in any like or related manner interfere with, restrain, or coerce you in the exercise of the rights guaranteed you by Section 7 of the Act.

WE WILL furnish the Union the information it requested about April 6, 1995.

SUSAN E. WOODS CONSTRUCTION COMPANY AND KWK CONSTRUCTION COMPANY, AS A SINGLE EMPLOYER, JOINT EMPLOYERS, OR ALTER EGOS